

INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule
Number

2019-17

Rule Number

He-A 305

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| 1. Agency Name & Address: Dept. of Health & Human Services Bureau of Drug and Alcohol Services 129 Pleasant St., Main Bldg. Concord, NH 03301 | 2. RSA Authority: RSA 172-B:2, V 3. Federal Authority: 4. Type of Action: Adoption X Amendment Repeal Readoption Readoption w/amendment |
| 5. Filing Date: 6/4/2019 | |

6. Short Title: **Voluntary Registry for Recovery Houses**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

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| Name: | Kim Reeve, Esq. | Title: | Legal Counsel- Admin Rules |
| Address: | NH Dept. of Health & Human Services Administrative Rules Unit 129 Pleasant Street Concord, NH 03301 | Phone #: | 271-9640 |
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TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Summary explaining the effect of the rule:

In 2018, the NH legislature passed HB 1775 (Chapter 307 of the Laws of 2018) which requires the Department to establish a voluntary registration program for operators of alcohol and drug free housing, and requires the Department to prepare, publish and disseminate the list of registered recovery houses. Section 2 of HB 1775 amended RSA 172-B to add paragraphs V and VI and those paragraphs will be effective June 30, 2019. The Department is filing this proposed interim rule pursuant to RSA 541-A:19, I(a), and will subsequently proceed with regular rulemaking.

The proposed new interim rule He-A 305 describes the process for voluntary registration, the process for receiving complaints about registered recovery houses, and the duties of registered recovery houses.

9. Listing of people, enterprises, and government agencies affected by the rule:
The groups affected by this rule are recovery house operators.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

| le | State Statute Implemented |
|-------------------|---------------------------|
| -A 305.01- 305.10 | RSA 172-B:2, V-VI |

11. Summary of the effect upon the state if the rule were not adopted:

If the interim rule were not adopted, the Department would not be able to adhere to the statute to have a voluntary registration program for recovery houses operating in New Hampshire.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

June 21, 2019

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 19:082, dated 05/28/19

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Adopt He-A 305, cited and to read as follows:**CHAPTER He-A 300 CERTIFICATION AND OPERATION OF ALCOHOL AND OTHER DRUG DISORDER TREATMENT PROGRAMS****PART He-A 305 VOLUNTARY REGISTRY FOR RECOVERY HOUSES**

Statutory Authority: RSA 172-B: 2

He-A 305.01 Purpose. The purpose of this part is to establish and administer a voluntary registry for operators of recovery houses, establish a process for receiving complaints, and to allow for the distribution of a list of registered recovery houses pursuant to RSA 172-B:2,V.

He-A 305.02 Definitions.

(a) “Alcohol and drug free environment” means an environment in which the use of alcohol and illicit drugs are prohibited and includes alcohol and drug free housing.

(b) “Alcohol and drug free housing” means a residence as defined in RSA 172-B: 2, includes residences known as “recovery houses”, and shall not include halfway houses, treatment units, detoxification facilities, or any other facility requiring health care facility licensure pursuant to RSA 151.

(c) “Commissioner” means the commissioner of the New Hampshire department of health and human service or his or her designee.

(d) “Complaint process” means the procedure to accept and respond to concerns about a specific recovery house reported by residents or other individuals to the department.

(e) “Department” means the New Hampshire department of health and human services.

(f) “New Hampshire Recovery House Registry” means the list of recovery houses voluntarily registering with the department, and provided by the department pursuant to this part.

(g) “Operator” means the lawful owner of a recovery house or a person employed and designated by the owner of the recovery house to have primary responsibility for the daily operation of the recovery house including maintaining standards and conditions supportive of substance use disorder recovery.

(h) “Recovery house” means alcohol and drug free housing.

He-A 305.03 Registration Application Submission.

(a) Each applicant shall complete and submit the following to the department:

- (1) A “New Hampshire Recovery Housing Registration Form” (June 2019) signed by the operator of the recovery house;
- (2) Inspection documentation signed by local officials to include health, building, zoning, and fire inspections, as applicable to the community where the recovery house is physically located;

- (3) Mission and vision statement;
 - (4) Proof of insurance;
 - (5) Resident agreement;
 - (6) Emergency procedures;
 - (7) Written permission from the lessor to use the property as a recovery house, if the property is leased; and
 - (8) Policy and procedures specific to the recovery house such as the house rules, residence rental agreement, refund policy, complaint procedure, staff job descriptions, if applicable, resident's rights, declaration of non-discrimination, and code of ethics.
- (b) The applicant shall mail or hand-deliver the documents required in (a) above to:

Department of Health and Human Services
 Division of Behavioral Health Services
 Bureau of Alcohol and Drug Services
 105 Pleasant Street
 Concord, NH 03301

He-A 305.04 Processing of Application and Issuance of Registration.

- (a) An application for registration shall be complete when the department determines that all items required in He-A 305.03(a) have been received by the department.
- (b) If an application does not contain all of the items required by He-A 305.03(a) the department shall notify the applicant in writing within 30 days of receipt that the application is incomplete.
- (c) Within 60 days of the department's receipt of the completed application (a) above, the applicant shall be included in the New Hampshire Recovery House Registry and shall be sent a letter confirming registration.

He-A 305.05 Expiration and Renewal.

- (a) Recovery housing registration shall expire one (1) year from the registration approval date.
- (b) All registered recovery houses shall complete and submit a renewal application "New Hampshire Recovery Housing Registration Form" (June 2019) at least thirty (30) days prior to the expiration of registration.
- (c) Each applicant shall submit the following with the renewal application in (b) above:
 - (1) Inspection documentation signed by local officials to include health, building, zoning, and fire inspections, as applicable to the community where the recovery house is physically located;
 - (2) Proof of insurance; and

- (3) Written permission from the lessor to use the property as a recovery house, if the property is leased.
- (d) Once the renewal application and required documents in (c) above have been submitted to the department, the department shall send a letter confirming the renewed registration.

He-A 305.06 Requirements for Organizational or Service Change.

- (a) All registered recovery houses shall provide the department with written notice at least thirty (30) days prior to changes for any of the following:

- (1) Ownership;
- (2) Physical location;
- (3) Name;
- (4) Number of beds; and
- (5) Changes in services available to residents.

- (b) All registered recovery houses shall complete and submit a new application for registry prior to operating under a:

- (1) Change in ownership; or
- (2) Change in physical location.

He-A 305.07 Complaints.

- (a) The department shall receive and review complaints that meet the following conditions:

- (1) Complaints based on the complainant's first-hand knowledge regarding the allegation(s) or on information related directly to the complaint by a person who has first-hand knowledge regarding the allegations;
- (2) Complaints concerning the health of residents and safety of the recovery house; and
- (3) Complaints concerning the management of the recovery house including, but not limited to, house environment, financial procedures, staffing, house rules and regulations, recovery support environment or any other concerns affecting the complainant.

- (b) Complainant's shall complete and submit form "NH Recovery Housing Complaint Form" (June 2019) in via mail, hand-delivery or email to:

Department of Health and Human Services
 Division of Behavioral Health Services
 Bureau of Alcohol and Drug Services
 105 Pleasant Street
 Concord, NH 03301

- (c) The department shall track all complaints.
- (d) The department shall review all complaints upon receipt to determine the appropriate venue for addressing the complaint as follows:
 - (1) Complaints concerning illegal activities and physical harm or threats shall be referred immediately to the attention of the appropriate law enforcement agency;
 - (2) Complaints concerning facility deficiencies, overcrowding or facility's structure shall be referred to the appropriate local authorities; and
 - (3) Complaints concerning consumer protection issues shall be referred to the NH office of the attorney general.
- (e) The department shall notify the owner of the recovery house regarding the complaint with the details of the complaint excluding the identity of the complainant within 15 business days of receipt.

He-A 305.08 Duties and Responsibilities of the Registered.

- (a) All registered recovery houses shall meet the following criteria:
 - (1) Ensure that all permits, inspection forms, other required documentation are current, and provide the updated documentation to the department as the documentation is updated.
 - (2) Register prior to the registration expiration date as required in He-A 305.05 above.
- (b) All registered recovery houses shall be permitted to advertise as being on the New Hampshire Recovery House Registry.
- (c) All registered recovery houses shall follow all applicable federal, state, and local laws.

He-A 305.09 Publication and Dissemination of Recovery House Registration List. The department shall:

- (a) Compile a list of registered recovery houses;
- (b) Publish the list on the bureau of drug and alcohol website found at <https://www.dhhs.nh.gov/dcbcs/bdas/index.htm>;
- (c) Distribute the list directly to the bureau of drug and alcohol services' contracted vendors; and
- (d) Make the list available to anyone upon request.

He-A 305.10 Referral to Registered Recovery Houses. A state agency or vendor with a state or federally funded contract that is providing treatment or recovery support services to a person shall not refer the person to alcohol and drug free housing unless the alcohol and drug free housing is listed on the New Hampshire Recovery House Registry.

APPENDIX

| Rule | State Statute Implemented |
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| He-A 305.01- 305.10 | RSA 172-B:2, V-VI |